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Attorneys for Debtor

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

In re:

VINH NGUYEN,

Debtor.

) Case No. 22-50907 MEH
) Chapter 7

APPLICATION FOR COMPENSATION

) Date: April 20, 2023

) Time: 10:00 a.m.

) Place: U.S. Courthouse, 280 South 1st Street,
) Courtroom 11, San Jose CA 95113**

) **Hearing to be conducted in person in the
) courtroom but Counsel / interested parties
) may appear by Zoom and instructions on
) doing so are provided below

) **Before: Hon. M. Elaine Hammond**

**TO THE HONORABLE JUDGE M. ELAINE HAMMOND, THE UNITED
STATES TRUSTEE'S OFFICE FOR THE NORTHERN DISTRICT OF CALIFORNIA,
THE CHAPTER 7 TRUSTEE, ALL PARTIES IN INTEREST, AND THEIR
RESPECTIVE COUNSEL(S) OF RECORD:** Now Comes the Farsad Law Office, P.C.,
hereinafter, the "Firm" or "Applicant", and hereby submits its Application for compensation

1 – Application for Compensation

1 (“Application”) in connection with its representation of the Debtor, Vinh Nguyen, (the
2 “Debtor”), in the above captioned Chapter 7 case. The Firm seeks approval of final
3 compensation totaling \$24,570.00 plus costs of \$450.00 for pre-conversion to Chapter 7 services
4 to the Debtor for the period covering October 29, 2022 to December 9, 2022 (the “Billing
5 Period”) for a total award of \$25,020.00.

6 This Application is being submitted pursuant to sections 330 and 331 of Title 11 of the
7 United States Code (the “Bankruptcy Code”), Rule 2016 of the Federal Rules of Bankruptcy
8 Procedure (the “Bankruptcy Rules”), the Guidelines for Compensation and Expense
9 Reimbursement of Professionals and Trustees (the “Northern District Guidelines”), the United
10 States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of
11 Expenses Files Under 11 U.S.C. §330 (the “UST Guidelines”), and the Local Bankruptcy Rules
12 for the Northern District of California.

13 This Application is based upon the instant Application and its Exhibits, the Declaration of
14 Nancy Weng filed concurrently herewith, the pleadings, papers, and records on file in the case,
15 and any evidence or argument that the Court may entertain at the time of the hearing on the
16 Application.

17 **Background**

18 The Debtor filed the instant case as a Chapter 13 case in Pro Per on October 4, 2022. The
19 Farsad Law Office, P.C. substituted into the case on October 29, 2022. On December 8, 2022, a
20 hearing was held on creditor Paul Nguyen’s Motion to Dismiss (Dkt No. 72) whereby the Court
21 converted the case to one under Chapter 7. An Order Converting Case to Chapter 7 was entered
22 on December 9, 2022 (Dkt. No. 123). Counsel worked hard on the case both before and after
23 conversion. However, our office is not seeking fees for any work performed post conversion.

24 Arasto Farsad and Nancy Weng were the primary attorneys throughout the pendency of
25 Debtor’s case. Farsad Law Office, P.C. did not take a retainer and was anticipating being paid
26 through the Debtor’s Chapter 13 plan. Although the case was converted, Farsad Law Office, P.C.
27 remained on the case as counsel (and still is) for the Debtor and understands it will never be
28 compensated for its representation for any work done post- conversion.

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I. INTRODUCTION

A. Statement of Compliance with Rule 2016

No agreement or understanding exists between the Firm (or its members) and any other persons or entities for the sharing of compensation received or to be received for services rendered in connection with this case.

B. Retainer

The Debtor did not pay the Firm a retainer and understood all fees were to be paid through the Chapter 13 plan when confirmed.

II. Narrative

A. Pre-Bankruptcy Events

The Debtor and primary former creditor, Paul Nguyen, had a huge dispute related to a \$215,000.00 deed of trust (“DOT”) recorded in 2011. As the claims against each other have been settled, the Debtor will not disclose much in this narrative other than it was a messy litigation in state court as well as bankruptcy Court. The Debtor also needed to deal with a huge judgment (well over a million dollars) as well as other debts in this case. It was primarily filed however, to deal with Mr. Nguyen’s DOT.

B. Significant Events In The Bankruptcy

After the Firm substituted into the case, it immediately filed schedules and moved to propose a 100% payment plan to pay Mr. Nguyen’s secured claim through a Chapter 13 plan of reorganization. The Firm intended initially to opt into the local Chapter 13 “no-look” fees for compensation. In that regard, an application for “no look fees” was filed on October 31, 2022 (Dkt No. 66) requesting \$8,500 in fees. Unfortunately, the Firm did not anticipate it would have to respond to and defend against a plethora of motions.

1 issues of assignment of rents and review of all documents and pleadings. The Firm also had to
2 initiate negotiations with counsel for the large judgment.

3 Total Hours: 30.6

Total Fees: \$10,710.00

4
5 **C. Client Communications / Correspondence**

6 Time billed to this category primarily relates to meetings with the Debtor concerning the
7 Debtor's finances, debts, prior litigation and how it involved this case. Counsels further had
8 many long meetings the Debtor about strategy and how to proceed under the circumstances-in
9 particular, how the state court case had gone.

10 Total Hours: 15.5

Total Fees: \$5,425.00

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12 **D. Costs**

13 In addition to the fees incurred, the Firm advanced the sum of \$450.00 for payment of
14 postage / copying / operating costs for which it requests reimbursement.

15 Total Costs: \$450.00

16
17 **IV. Client Review of Billing Statements**

18 Pursuant to the Northern District Guidelines, a cover letter for this the Application was
19 sent to the Debtor concurrently with the filing of this Application. This letter invites the Debtor
20 to discuss with the Firm or with the U.S. Trustee's Office any objections, concerns, or questions
21 the Debtor may have with regard to the requested compensation and reimbursement in the instant
22 Application. A copy of this letter is attached to the Declaration of Nancy Weng as **Exhibit B**.

23 **Notice of this Application and Hearing**

24 A Notice of Hearing on this Application will be served upon the Debtor, the U.S.
25 Trustee's Office for the Northern District of California, and all other parties requesting special
26 notice in this case.

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28 5 – Application for Compensation

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Evaluation of Requests for Compensation

Pursuant to Bankruptcy Code Section 330, the Court may award to a professional person reasonable compensation for actual, necessary services rendered, and reimbursement for actual necessary expenses incurred. As set forth above, the fees for which the Firm requests compensation are for actual and necessary services rendered. In determining the amount of allowable fees under Bankruptcy Code Section 330(a), courts are to be guided by the same “general principles” as are to be applied in determining awards under the federal fee-shifting statutes, with “some accommodation to the peculiarities of bankruptcy matters.” Burgess v. Klenske (In re Manoa Finance Co., Inc.), 853 F.2d 687, 691 (9th Cir. 1988).

In assessing the propriety of an award of attorneys’ fees, twelve factors relevant to determining such fees were identified in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-719 (5th Cir. 1974), a Title VII class action case under the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq., and Kerr v. Screen Extras Guild, Inc., 526 F.2d 67, 70 (9th Cir. 1975), cert. denied, 425 U.S. 951 (1976):

- (1) the time and labor required,
- (2) the novelty and difficulty of the questions,
- (3) the skill requisite to perform the service properly,
- (4) the preclusion of other employment by the professional due to acceptance of the case,
- (5) the customary fee,
- (6) whether fee is fixed or contingent,
- (7) time limitations imposed by the client or the circumstances,
- (8) the amount involved and the results obtained,
- (9) the experience, reputation, and ability of the professionals,
- (10) the undesirability of the case,
- (11) the nature and length of the professional relationship with the client, and
- (12) awards in similar cases. See American Benefit Life Ins. Co. v. Baddock (In re First Colonial Corp. of America), 544 F.2d 1291 (5th Cir. 1977) (Johnson criteria applicable in bankruptcy cases.)

1 The time for which compensation is sought is detailed in **Exhibit A** attached to the
2 Declaration of Nancy Weng. The services and time expenditures are reasonable in light of the
3 labor required in this case. The Firm charges for its professional services are based upon the
4 time, nature, extent, and value of such services and the cost of comparable services in the area
5 for professionals of like skill and experience. The compensation the Firm seeks by way of this
6 Application is the customary compensation sought by the Firm under similar circumstances.

7 **Section 330(a)(3) Factors**

8 Bankruptcy Code Section 330(a)(3) sets forth five (5) factors to be considered by the
9 Court. (11 U.S.C. § 330(a)(3).) Although several of these factors (such as the time involved, the
10 timeliness of the firm's performance, and the complexity of the case) were addressed above, the
11 Firm believes two of the five factors should be discussed separately again here.

12 First, Bankruptcy Code Section 330(a)(3)(C) requires that the professional services be
13 necessary to the administration of and/or beneficial at the time at which the service was rendered
14 toward completion of the case.

15 The Firm believes the facts of this case make it evident that the Firm's services were both
16 necessary and beneficial even if the case was converted.

17 The Firm provided advice, counsel and direction to the Debtor to assist him through the
18 case.

19 Second, Bankruptcy Code Section 330(a)(3)(E) requires the compensation to be
20 reasonable based on customary compensation charged by comparably skilled practitioners in
21 cases other than cases under the Bankruptcy Code.

22 **RESPONSIBLE PERSONNEL (Nancy Weng and Arasto Farsad)**

23 Nancy Weng, the primary attorney working on this case, is a California lawyer licensed
24 for approximately fourteen years. Nancy Weng's \$350.00 per hour rate is reasonable in the area
25 for services of attorneys of like skill and experience, and is commensurate with counterparts
26 engaged in non-bankruptcy specialties of the law.

27 Arasto Farsad, the lead member of the Firm, has been a practicing bankruptcy attorney in
28 the Northern, Eastern, Central and Southern Districts of California since 2010, and has

1 successfully overseen hundreds of Chapter 7 and Chapter 13 cases to discharge / completion. Mr.
2 Farsad has also confirmed roughly 60 individual Chapter 11 cases. Mr. Farsad's \$350.00 per
3 hour rate should also be deemed reasonable in the area for services for attorneys of like skill and
4 experience and is also commensurate with other reasonably experienced local counsel(s).

5 Taking into consideration the time and labor required, the novelty and difficulty of the
6 issues, the skills required to perform the legal services properly, the preclusion of other
7 employment by the Firm due to the acceptance of the case, and the customary fee(s) for similarly
8 experienced counsel, as well as the time limitations imposed by the client, the fees (and costs)
9 requested should be deemed reasonable and awarded.

10 This was not a typical case for the Firm. It definitely prefers non-adversarial matters like
11 standard mortgage "reorganization" cases but the Firm took on this matter hoping to resolve the
12 issues between the parties which it subsequently did.

13 CONCLUSION

14 Wherefore, the Firm prays that the Court, after the noticed hearing on this Application,
15 awards the Firm with its requested sole compensation in this case of: \$25,020.00 (of this amount,
16 \$450.00 are costs.) The Firm requests that the fees be paid as an administrative expense from the
17 Debtor's Chapter 7 estate.

18 Respectfully submitted,

19 Executed on **March 28, 2023** at **San Jose**, California

20 FARSAD LAW OFFICE, P.C.

21 **/s/ Nancy Weng, Esq.**

22 Nancy Weng

23 Attorneys for Debtor